

# Kirkland moves to deny Potala Village appeal to State Supreme Court

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City of Kirkland

The city of Kirkland has filed a request to the State Supreme Court to deny Potala Village's appeal of a ruling by the Court of Appeals, which sided with the city.

The continued legal motions between the city and developer have centered on whether or not the approval of a shoreline development permit gives a developer vested rights to their property. It also has focused on whether the city prevented the developer from filing a building permit application. In its ruling, the Court of Appeals concluded the building permit was necessary to have vested rights and that Potala Village failed to cite any law preventing them from filing a building permit application before the moratorium. Potala Village attorneys are claiming they did not file for a building permit application because the city informed them that they would not have accepted it at the time, when there was a moratorium in effect.

However, the city is claiming in their response that they told Potala Village owner Lobsang Dargey when he submitted a shoreline development permit that he could also apply for a building permit. He did not do so, the city claims, until after the city had imposed a moratorium on development when a permit could not be processed. Before the November 2011 moratorium, Potala Village had submitted a completed shoreline substantial development permit, which the city approved in January 2013, but had not filed for a building permit application. The City Council eventually passed new zoning regulations placing a maximum limit on the number of units per acre allowed in business neighborhood zoning. The city's request also claims that Dargey later admitted during a meeting with city officials that he "purposely chose not to file a building permit application before the moratorium was enacted due to how expensive it would be to prepare; in addition to future expenses he could incur due to changes to the permit that could be required as a result of environment or shoreline review."

Attorneys for Dargey filed a petition to the Supreme Court in October, in which they argued that a shoreline permit is all that is necessary to have vested rights, because it is “the most environmentally protective regulation and takes into account all applicable zoning and land use regulations.”

The Potala Village petition also claims the Court of Appeals ruling contradicts at least 60 years of common law doctrine protecting vested rights to property and in doing so makes the vested rights doctrine “only available on a statutory basis.”

Potala Village planned to have 143 units, but under the new zoning regulations only 60 would be allowed.